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1993/12/03

signed Dec. 3, 1993

ENTERED
DW 1/24/94

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE
GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON EFFECTIVE COOPERATION AND IMPLEMENTATION OF
UNITED NATIONS GENERAL ASSEMBLY
RESOLUTION 46/215 OF DECEMBER 20, 1991

The Representatives of the Government of the United States of America and the Government of the People's Republic of China,

Taking into account, in particular, the necessity for effective cooperation and implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991, entitled "Large-Scale Pelagic Driftnet Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas" ("UNGA 46/215"),

Have agreed to the following temporary Memorandum of Understanding ("Memorandum"):

1. Officials of one Party upon encountering on the high seas of the North Pacific Ocean a fishing vessel flying the other Party's national flag, or claiming to be registered with the authorities of the other Party, that is found using or is equipped for use of a large-scale pelagic driftnet inconsistent with the provisions of UNGA 46/215, shall transmit to the appropriate officials of the other Party a request to conduct a cooperative visit and verification of said vessel.
2. A qualified official of each Party shall be entitled to ride on board each high seas driftnet enforcement vessel of the other Party. Each such official shall embark and disembark the vessel at times and locations so as not to interfere with the schedule of the vessel.
3. If the authorized officials of the other Party are not able to join in the cooperative visit and verification, they shall so inform the requesting Party immediately and shall cooperate with and assist the authorized officials of the requesting Party in the conduct of the visit and verification. When the on-scene authorized officials of the requesting Party are informed that authorized officials of the other Party are not able to join in the visit and verification, or the authorized officials of the other Party do not so inform the requesting Party immediately, the authorized officials of the requesting Party shall initiate the visit and verification.

4. If the authorized officials of the other Party arrive within a reasonable span of time after receiving a transmission requesting a cooperative visit and verification of a fishing vessel found using or equipped for use of a large-scale pelagic driftnet on the high seas of the North Pacific Ocean, the authorized officials of the two Parties shall jointly visit and verify the fishing vessel.

5. The visiting officials authorized may verify the fishing vessel's flag and registry, and may examine the vessel except for crew living areas and engineering spaces, together with its equipment and records, fishing gear, catch and logs, to determine whether the vessel has engaged in activities inconsistent with the provisions of UNGA 46/215.

6. At the time this Memorandum enters into force, each Party shall provide the other Party with examples of credentials that its authorized officials shall present, upon request, to the captain of a visited vessel.

7. The results of visit and verification undertaken by the requesting Party on the high seas of the North Pacific Ocean with respect to vessels of the other Party found using or equipped for use of a large-scale pelagic driftnet inconsistent with the provisions of UNGA 46/215, including the evidence of any activities inconsistent with the provisions of UNGA 46/215, shall be provided to the appropriate officials of the other Party for further action.

8. If the results of the visit proved that the visited fishing vessel engaged in activities inconsistent with the provisions of UNGA 46/215 and that it was registered with the authorities of any Party to this Memorandum, the authorities of that Party shall take enforcement action with respect to the fishing vessel. In taking such enforcement action, that Party shall receive and take into consideration any evidence of activities inconsistent with the provisions of UNGA 46/215 provided by the other Party and shall inform the other Party of the enforcement actions taken.

9. If it is determined that the visited fishing vessel has engaged in activities inconsistent with the provisions of UNGA 46/215, and that the vessel was not registered with the authorities of either Party, the Party that initiated the visit and verification may take enforcement action with respect to that vessel in accordance with applicable rules of international law and practice, and shall inform the other Party of any such action taken.

10. The authorized officials conducting the visit and verification shall conduct their operations in accordance with applicable rules of international law and practice, so that the fishing vessels suffer the minimum interference and inconvenience.